

CASE No. 3

CONCERNING THE STATUTE OF LIMITATION (Z.N.(S.) 1543)

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The Fifty-year Limitation

By J. Chester Bradley (*President, International Commission on Zoological Nomenclature*)

Perhaps Article 23(b) has aroused more controversy than any other single item of the new code.

May I direct attention to some points in its wording that may cause confusion ?

(1) "A name that has remained unused as a senior synonym." Thousands of names in constant use have never been used as senior synonyms, because they have no junior synonyms. I assume for example, that the genus *Homo* has no junior synonyms, hence has never been used as a senior synonym, is a *nomen oblitum* and may not be used unless the Commission so directs. Of course, that is a *reductio ad absurdum*—but why not have this section worded to mean what it says ?

(2) "Primary zoological literature" is nowhere defined. Does it mean all literature except such recording publications as the *Zoological Record* ?

(3) What does "remained unused" mean ? Does it mean used but not accepted as the presumptively correct or at least generally adopted name for the taxon ? But if an author, in 1960, adopting *B-us x* as the correct name of a taxon, mentions and rejects *B-us y* as a synonym, or if he merely mentions that Lamarek, in 1803 had applied the name *y* to what is probably this species, has he "used" the name *y* ?

(4) Does "fifty years" count back from 6 November 1961, when the new Code was published, or does it count back from whatever future date a decision is to be made ?

(5) "Has remained unused . . . for more than fifty years" does not, literally, mean counting from any particular time, it could mean that there must be no period of fifty years after it was established in which it had remained unused for fifty years. This would involve an impracticable search of literature and senseless rejection of names in use, or innumerable cases coming up before the Commission to conserve names.

(6) No differentiation has been made between objective and subjective synonymy, but there can arise a difference in result. If there are two nominal genera *A-us* and *B-us*, each of which has been in use for fifty years, not as synonyms, but now an author on taxonomic grounds unites them, he must not be forbidden to use the older name *A-us* because it had not been used as a synonym of *B-us* for fifty years or indeed ever !

(7) The principle, if obligatory, can be applied without too great difficulty to groups in which there has been constant literature, at least if that literature has been continually indexed, so that it does not become a formidable problem to make sure that a given name has *not* been used for fifty years. But it is a very different matter if there has been no revisionary literature of the family group taxon involved, and at most only casual references to some species. I happen to be revising the Ethiopian and Neotropical members of a family of wasps which have never been revised since a world monograph in 1864. The majority of species have not been even mentioned in print within the last half century. Must I discard all the senior synonyms among them and adopt the junior synonyms or invent new names?

There is a compromise that could be made, without such absurd situations arising. The prime intent of the provision would be saved, if I correctly interpret that intent. I think that it was, in case an author discovers a long overlooked and unused senior synonym of a name that is in common use, to provide a procedure that would relieve him of shifting to the old forgotten name.

That can be done by making the action concerning *nomina oblita* permissive instead of obligatory, requiring, however, that an author choose the course that will the least disturb current practice.

There is another course, and that is to repeal Article 23(b) on the grounds that the objective sought, if the case is considered of sufficient importance, can be attained by use of the plenary powers of the Commission.

I append a proposed substitute for Article 23(b).

Proposed substitute for Article 23(b)

If a name has not been adopted as the presumably correct or currently used name of a taxon (or of some other taxon) for a period of fifty years immediately prior to the date at which a taxonomist wishes to decide whether to adopt it as the correct name for that taxon; and if it is a senior objective synonym or regarded as a subjective synonym of some other available name for that taxon, then the taxonomist shall:

- (a) adopt the senior synonym if no contrary usage has been established,
- (b) adopt whichever synonym, regardless of priority, will least disturb current usage, if any usage can be regarded as having been established.
- (c) notify the Commission, who shall place the name on the appropriate official list, if, after six months' public notice, no challenge has been received.

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Request for Reconsideration of Article 23 on *nomina oblita*

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Article 23b relative to *nomina oblita*, even if accepted, leaves two glaringly unanswered questions: (1) what is "primary zoological literature", and